

Before the
Federal Communications Commission
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
Service Rules for the 698–746, 747–762)	WT Docket No. 06-150
and 777–792 MHz Bands)	
)	
Implementing a Nationwide, Broadband,)	PS Docket No. 06-229
Interoperable Public Safety Network in the)	
700 MHz Band)	
)	
Applications for the Public Safety)	DA 07-3885
Broadband License)	

REQUEST TO FURTHER SAFEGUARD PUBLIC SAFETY SERVICE

In the coming months, the Commission will grant the Public Safety Broadband License (“PSBL”) and hold an auction to determine the winner of the commercial D Block – two steps critical to the creation of a public/private partnership that, if successful, will solve the interoperability crisis that continues to plague public safety communications in this country. But as Commissioner Copps has urged, “we need to ensure that this network *actually works for public safety*.”¹ This statement recognizes the fundamental challenge of the Shared Network: it must meet the unique and highly demanding standards of public safety while maintaining financial and technical viability. The rules established by the Commission for the D Block should enable and require the D Block licensee to base its service to public safety strictly on public safety’s needs and limit its pricing to avoid any profit-making. Such a structure will

¹ See *In the Matter of Service Rules for the 698–746, 747–762 and 777–792 MHz Bands et. al*, Second Report and Order, WT Docket No. 06-150 *et. al*, 22 FCC Rcd 15289, Statement of Commissioner Michael J. Copps Approving in Part, Concurring in Part at 2 (rel. Aug. 10, 2007) (emphasis in original).

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ensure that the high costs of public safety's needs do not undermine the overall viability of the Shared Network in which public safety and commercial users, alike, have a common interest. Simply put, no service provider or its agent should be motivated to take a profit from firefighters, police, and other first responders.

To accomplish these goals, Frontline Wireless, LLC ("Frontline") files this request that the Commission (1) adopt a "no profit, no loss" framework to govern the fees collected from public safety users by the commercial operator of the Shared Network and (2) require the D Block winner to establish a not-for-profit subsidiary within the Operating Company to provide service to public safety agencies in accordance with this framework.

Not-for-Profit Structure. To implement the "no profit, no loss" concept, the Commission should require the winning bidder of the D Block license to establish a not-for-profit subsidiary (the "Not-for-Profit") that would account for the licensee's interaction with public safety agencies.² In light of its importance to the provision of network services to public safety agencies, the Not-for-Profit would be strictly limited in the fees it could charge public safety agencies pursuant to procurement contracts. Although the Not-for-Profit would be organized under the for-profit Operating Company to allow efficient sharing of personnel and other resources, it would be strictly separated from for-profit operations for accounting purposes.

The Not-for-Profit should be authorized to charge a modest administrative fee for its operational expenses. It would also collect a fee to be remitted to the PSBL, as support for the PSBL's ongoing role as trustee of the public safety spectrum and guardian of public safety's

² *Id.* at ¶ 518 (requiring the winning bidder for the D Block license to form separate special purpose entities, including an Operating Company to which the spectrum rights associated with the D Block license and the secondary use rights associated with the PSBL will be leased).

interests.³ Also in recognition of the PSBL's oversight role, the PSBL would have the right to name two of its board members to the board of the Not-for-Profit.

Objective Formula for Determination of Fees. Fees charged by the Not-for-Profit to public safety customers should be based on an objective formula that reflects the costs of serving public safety, including that community's needs for reliability of signal coverage, robustness, capacity, security and encryption, and other heightened network requirements. This formula must also provide public safety users a credit for the PSBL's grant of secondary commercial access to the D Block licensee's commercial customers. Specifically, Frontline proposes that the FCC adopt the following formula for determining the amount that the Not-for-Profit may charge public safety users for network services:

$\begin{array}{c} \text{Amortized, incremental fixed costs of building the Shared Network to public safety's standards} \\ \text{plus} \\ \text{Ongoing operating expenses for maintaining the Shared Network to public safety's standards} \\ \text{minus} \\ \text{Amortized value of secondary use of the PSBL spectrum by commercial customers} \end{array}$
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Through this "no profit, no loss" structure, the Commission will align the incentives of the D Block winner and the PSBL to develop a Shared Network that meets the robust communications needs of the public safety community. Because the D Block winner will not suffer a loss in serving public safety, it will have a strong incentive to cooperate fully with the PSBL. The PSBL, in turn, will have an incentive to seek only those requirements that are necessary and genuinely beneficial since incremental costs will be reflected in the fees charged

³ Alternatively, the Commission could provide that this administrative fee is payable directly by public safety agencies to the PSBL. The Commission should impose a reasonable cap on these fees.

to public safety agencies. This proposal allows the most qualified party – the public safety community – to determine the appropriate balance between network features and costs.

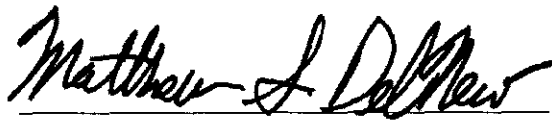
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To expedite adoption of this additional safeguard to public safety service in the 700 MHz band, Frontline urges the Commission to promptly issue a public notice announcing a brief comment cycle on the “no profit, no loss” framework. Also, on its own motion and pursuant to its broad licensing authority, the Commission should announce that it will limit applications for the PSBL to those entities certifying their willingness to work cooperatively with the Not-for-Profit to the benefit of public safety agencies.⁴

Respectfully submitted,



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⁴ See Public Notice, *Public Safety and Homeland Security Bureau Solicits Applications for the 700 MHz Public Safety Broadband License*, DA 07-3885, Sept. 10, 2007.